

Exhibit A

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

3 No. 1:04-cv-10738-MLW

4
5 EBEN ALEXANDER, III, M.D.,
6 Plaintiff

7 vs.

8
9 BRIGHAM & WOMEN'S PHYSICIANS ORGANIZATION, INC., et al.
10 Defendants

11 *****

12
13 For Hearing Before:
14 Chief Judge Mark L. Wolf

15 Cross Motions for Summary Judgment
16 (Continued hearing.)

17
18 United States District Court
19 District of Massachusetts (Boston)
20 One Courthouse Way
21 Boston, Massachusetts 02210
22 Wednesday, January 25, 2006

23 *****

24 REPORTER: RICHARD H. ROMANOW, RPR
25 Official Court Reporter
United States District Court
One Courthouse Way, Room 5200, Boston, MA 02210
(617) 737-0370

COF

1 can't decide this based on your proffer of what these things
2 are going to show unless Mr. Paris tells me, "It's okay. Rely
3 on the proffer." You know, let me hear from Mr. Paris. No,
4 no, no, actually, let me hear the answer to one more question,
5 please.

6 And the question is this. If I deny these motions for
7 summary judgment, which doesn't mean at all you've wasted your
8 time because you now would have a very focused amount of
9 discovery to do, I would assume, but do you want any discovery?

10 MR. CASEY: None.

11 THE COURT: None.

12 MR. CASEY: 0.

13 THE COURT: That's what I --

14 MR. CASEY: And the other thing I would say -- and,
15 you know, I'm reluctant to say this, but I think I have to say
16 it for my client, that I'm going to go draft requests for
17 admissions and there may be a point when I come back, at the
18 end of this process, where I'm looking for an award of costs
19 and fees for having had to extend the money to prove that which
20 I know we can prove and could be admitted. But I just want to
21 put on the record that -- and, you know, Rule 1 of the Federal
22 Rules of Civil Procedure says that we should do this business
23 of litigating cases as cost effectively as possible. So it's
24 just --

25 THE COURT: It would have been cost effective if

1 you'd produced whatever documents you produced recently a long
2 time ago.

3 MR. CASEY: I mean, we were trying -- you know,
4 that's a fair -- you know, my brother may try to make a lot of
5 hay out of this --

6 THE COURT: I mean, this is, frankly, frustrating
7 to me. I have very limited time. If you had filed that motion
8 a week ago, I might have said, "Fine, take some more time.
9 I'll do something else." My law clerk and I -- you know, it's
10 not money, we get paid the same amount, but we're working on
11 this case. So, you know, Rule 1? You know, I can sanction you
12 for not producing the documents, for requiring me to duplicate
13 this effort. I could have denied these in November. I really
14 stretched to see if what you jointly tried to do could work.
15 That's it. Have a seat.

16 And if you file a request for admissions, you just want
17 to make sure you're asking them to admit something of which
18 they have knowledge. Because if you ask them about facts that
19 they haven't had discovery for, I can tell you right now I'm
20 not going to -- even if you win, award any costs against them
21 for failing to admit that.

22 What would you like to say? Maybe nothing. No, no,
23 don't say nothing.

24 MR. PARIS: No, I can't in good conscience.

25 THE COURT: I know.